

**Notice of Allowability**

Application No.

09/415,781

Examiner

Tracy Dove

Applicant(s)

LQBAL ET AL.

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1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/27/04.
2. ☒ The allowed claim(s) is/are 1,2,5-12 and 23.
3. ☒ The drawings filed on 19 November 1999 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kevin King on 11/8/04.

The application has been amended as follows:

#### **IN THE SPECIFICATION:**

At page 1, line 3; replace "application serial number 09/415,466" with "number 6,649,031".

#### ***Allowable Subject Matter***

Claims 1, 2, 5-12 and 23 are allowed.

The following is an examiner's statement of reasons for allowance: the claims are directed toward a coated fuel cell bipolar plate including a metal plate, a graphite emulsion coating over the metal plate and a corrosion resistant graphite overcoating over the graphite emulsion coating. The graphite emulsion coating bonds the corrosion resistant graphite overcoating to the metal plate.

The prior art does not teach the coated fuel cell bipolar plate of the claimed invention. The reasons for allowance are contained in the Office Action of 6/9/03, but are reiterated below.

The claims require the first coating layer on the metal plate to be an electrically conductive coating of a graphite emulsion (interpreted as "coating consisting of a graphite

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emulsion”). Yoshimura 6,291,094 teaches a separator plate for a fuel cell having a first coating layer and a second coating layer. However, Yoshimura does not teach the first coating layer is a graphite emulsion and the second layer includes graphite. Yoshimura teaches away from the claimed invention because the reference states the “base member is coated with an electrically conductive material other than carbon” (2:15-20). Thus while Yoshimura teaches the first coating layer may comprise graphite (carbon material), the reference teaches that the layer must include an electrically conductive material other than carbon. Furthermore, Yoshimura does not teach a graphite emulsion coating layer. The graphite emulsion coating of the produced bipolar plate bonds the metal plate to the graphite overcoating. The graphite emulsion seals in microporosities present in the graphite overcoating (spec. 4:12-20). The graphite emulsion coating is part of the produced bipolar plate.

### ***Conclusion***

A provision rejection under the judicially created doctrine of double patenting over copending Application No. 10/605,035 (US2004/0106029) was not made because the provisional double patenting rejection would have been the only rejection against the pending claims. See MPEP 804.

The International Search Report cites EP0955686 issued on 11/10/99 and WO99/66579 issued on 12/23/99 as “P,X” documents. Neither reference is available as prior art against the claimed invention. The search report also cites JP2000-012048 and JP57-105974 as “P,X” or “X” documents. However, neither reference teaches a coated bipolar fuel cell plate having a metal plate coated with a graphite emulsion coating and a graphite overcoating. See arguments filed by Applicant on 9/21/01.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tracy Dove whose telephone number is 571-272-1285. The examiner can normally be reached on Monday-Thursday (9:00-7:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pat Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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